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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELISSA M. ROBERTS, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

BLOOM ENERGY CORPORATION, et al.,

Defendants.

Lead Case No. 4:19-cv-02935-HSG

CLASS ACTION

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING SCHEDULE FOR
AMENDED COMPLAINT AND
DEFENDANTS' RESPONSE**

Assigned to: Hon. Haywood S. Gilliam, Jr.

Pursuant to Civil Local Rule 7-12, the parties to this action stipulate to and respectfully request the Court to enter the schedule below regarding amendment of the current complaint and responses thereto in light of certain recent developments.

WHEREAS:

1. On May 28, 2019, plaintiff Elissa M. Roberts filed a federal securities class action against defendants Bloom Energy Corporation, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Colin L. Powell, Peter Teti and Mary K. Bush and Kelly A. Ayotte (collectively, the "Defendants") (ECF No. 1).

2. On September 3, 2019, following the briefing of lead plaintiff motions, the Hon. William H. Orrick appointed James Everett Hunt as Lead Plaintiff ("Plaintiff") and Levi & Korsinsky,

1 LLP as Lead Counsel (ECF No. 39).

2 3. On November 4, 2019, Plaintiff filed the Amended Complaint for Violations of the
3 Federal Securities Laws (the “Amended Complaint”) (ECF No. 49). Plaintiff’s Amended Complaint
4 alleges violations of the federal securities laws under Sections 11 and 15 of the Securities Act of 1933
5 and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and names, in addition to the
6 original Defendants, the following entities as additional defendants in a claim under Section 11 of the
7 Securities Act of 1933: J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse
8 Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith
9 Incorporated, Cowen & Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc.,
10 Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated (the “Underwriter
11 Defendants”).

12 4. On February 12, 2020, prior to Defendants responding to Plaintiff’s Amended
13 Complaint, Bloom Energy issued a press release providing an update on the timing of its fourth quarter
14 and full year 2019 earnings report and announcing that it will restate its financial statements for certain
15 periods when it issues its Form 10-K on or before March 16, 2020.

16 5. Following Bloom Energy’s announcement, Plaintiff notified Defendants that he
17 intended to amend the Amended Complaint once Bloom Energy released the Form 10-K. The parties
18 stipulated to a briefing schedule whereby Plaintiff would file the amended complaint 14 days after the
19 release of the Form 10-K and then Defendants would respond to the amended complaint 45 days
20 thereafter. The Court entered the stipulation on March 10, 2020 (ECF No. 110).

21 6. Bloom Energy released the Form 10-K on March 31, 2020, thereby requiring Plaintiff
22 to file the amended complaint on April 14, 2020. Plaintiff respectfully requests an additional week to
23 file the amended complaint, and that all other remaining deadlines be extended likewise. Defendants
24 do not oppose Plaintiff’s request.

25 **IT IS THEREFORE STIPULATED AND AGREED** by Plaintiff, Defendants, and the
26 Underwriter Defendants that, subject to the Court’s approval:

- 27 1. Plaintiff will file a Second Amended Complaint on or before April 21, 2020;

- 1 2. Defendants and the Underwriter Defendants will either answer the Second Amended
2 Complaint or move to dismiss on or before June 5, 2020;
3
4 3. If Defendants and the Underwriter Defendants move to dismiss the Second Amended
5 Complaint, Plaintiff will oppose the motions on or before July 20, 2020; and Defendants
6 and the Underwriter Defendants will submit replies in further support of the motions on
7 or before August 19, 2020.

8 **IT IS SO STIPULATED.**

9 Date: April 14, 2020

By: /s/ Adam M. Apton

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21 Date: April 14, 2020

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Date: April 14, 2020

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Inc., and Robert W. Baird & Co.
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~~[PROPOSED]~~ ORDER

Pursuant to the parties' stipulation, and for good cause shown, IT IS SO ORDERED that:

1. Plaintiff will file a Second Amended Complaint on or before April 21, 2020;
2. Defendants and the Underwriter Defendants will either answer the Second Amended Complaint or move to dismiss on or before June 5, 2020;
3. If Defendants and the Underwriter Defendants move to dismiss the Second Amended Complaint, Plaintiff will oppose the motions on or before July 20, 2020; and Defendants and the Underwriter Defendants will submit replies in further support of the motions on or before August 19, 2020.

DATED: 4/15/2020

By: 
Hon. Haywood S. Gilliam, Jr.
United States District Judge